

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION


TARA TEMPERANCE PEACE,	)	Case No. 3:19 CV 1034
a.k.a, Todd E. Peace	)	
	)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
	)	
vs.	)	MAGISTRATE JUDGE DAVID A. RUIZ
	)	
	)	
CHRISTOPHER LaROSE, Warden	)	<u>ORDER ADOPTING MAGISTRATE'S</u>
	)	<u>REPORT AND RECOMMENDATION</u>
Defendant.	)	
	)	

This matter comes before this Court upon the Report and Recommendation of Magistrate Judge David A. Ruiz. The Report and Recommendation (ECF #10), issued on January 23, 2020, is hereby ADOPTED by this Court. Petitioner filed this action requesting a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This was Petitioner's second petition for a writ of habeas corpus. Respondent filed a motion to transfer the petition to the Sixth Circuit Court of Appeals on the basis that the present petition constitutes a second or successive petition, which must first be considered by the Sixth Circuit Court of Appeals. (ECF #8). Petitioner did not oppose Respondent's motion.

The Magistrate Judge recommends that Petitioner's claim be transferred to the Sixth Circuit Court of Appeals for further consideration as a second or successive petition pursuant to 28 U.S.C. § 2244(b). The Sixth Circuit has held that a habeas petition is a "second" petition "when it raises a claim that could have been raised in the first petition but was not so raised, either due to deliberate abandonment or inexcusable neglect." *In re Bowen*, 43 F.3d 699, 704 (6th Cir. 2006). The Magistrate

Judge found that Petitioner's present habeas claims trial-level errors that could have been raised in the first petition and does not fall under any applicable exception.

Objections to the Magistrate's Report and Recommendation were due by February 6, 2020. Neither party filed any objections. The Court reviewed *de novo* the Report and Recommendation, see *Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999), and ADOPTS the Report and Recommendation in its entirety. The Respondent's Motion to Transfer is, therefore, GRANTED. (ECF #8). IT IS SO ORDERED.

  
\_\_\_\_\_  
DONALD C. NUGENT  
Senior United States District Judge

DATE: February 18, 2020